

Appl. No. 10/761,568  
Response Reply Dated February 21, 2007  
Reply to Office Action of Nov. 21, 2006

**Amendments to the Drawings**

The attached sheets of drawings include changes to Figures 1-5. These sheets, which include Figures 1-5, replace the original sheet including Figures 1-5.

Attachment: Replacement Sheet

### **REMARKS/ARGUMENTS**

This paper is filed in response to the Office Action mailed on November 21, 2006. At that time, claims 1-32 were pending in the application. In the Office Action, the Examiner rejected claims 1-32 under 35 U.S.C. § 112, 2<sup>nd</sup> Paragraph. The Examiner also objected to the abstract, the specification (the "disclosure"), and the drawings. Further, the Examiner rejected claims 1, 3-7, 11, 26-27 and 32 under 35 U.S.C. § 102(b) as being anticipated by EP 0 414 300 to Kreuzer (hereinafter "Kreuzer '300"). Claims 1, 2, 4, 10, 12, 15-17, 22-26, 31, and 32 were rejected under 35 U.S.C. § 102(b) as being anticipated by DE 39 27 383 A1 to Kreuzer (hereinafter "Kreuzer '383"). Claims 1, 13-15, 20, 21, 26, 30 and 32 were rejected under 35 U.S.C. § 102(b) as being anticipated by Japanese Utility Model No. 56-99858 to Masahiro (hereinafter "Masahiro '858"). Claims 1, 8, 9, 15, 18, 19, 26, 28, and 29 were rejected under 35 U.S.C. § 103(a) as being unpatentable over GB 433,531 to Gilmore (hereinafter "Gilmore '531"). Claims 1, 15, 26, and 32 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2004/0024524 A2 to Kreuzer (hereinafter "Kreuzer '624"). Claims 8, 9, 18, 19, 28, and 29 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kreuzer '624 in view of U.S. Patent No. 3,006,690 issued to Pierce (hereinafter "Pierce '690").

As a result of this paper, claims 1, 6, 7, 15, 24, 26, and 32 have been amended and claims 4, 8, 17, 19 and 27-28 have been cancelled. In light of these changes, and the present remarks, favorable consideration and allowance of the pending claims is respectfully requested.

#### **I. Objection to the Abstract**

The Examiner objected to the Abstract based upon the inclusion of the words "is disclosed." As a result of this paper, the Abstract has been amended to address this issue. Withdrawal of this objection is respectfully requested.

#### **II. Objection to the Disclosure and the Drawings**

The Examiner objected to the drawings and the specification ("disclosure") on grounds that the drawings and the specification were inconsistent. Specifically, the examiner asserted

that the stippling pattern in the drawings suggested that "fluid 32" was made of "stipple or cheese" whereas paragraph [0049] of the disclosure recited that this fluid comprised water, oil, etc. As a result of this paper, new drawings have been submitted which address this issue. With these new drawings, the specification and the drawings are consistent and proper. Favorable consideration and withdrawal of this objection is respectfully requested.

### **III. Rejection Under § 112, 2<sup>nd</sup> Paragraph**

Claims 1-32 were rejected under § 112, 2<sup>nd</sup> Paragraph as being indefinite. Specifically, the Examiner asserted that the use of the term "attachable" (in claims 1, 15, and 26), "may flow" (in claim 2), and "sealable" (in claim 13) was improper. As a result of this paper, the claims have been amended to address these issues. Withdrawal of this rejection is respectfully requested.

The Examiner also indicated that it was "unclear" regarding the use of terms "a vehicle" or a "connected vehicle" found in claims 1, 3, 6, 7, and 32. As a result of this paper, the claims have been amended to address these concerns. Favorable consideration and withdrawal of this rejection is respectfully requested.

### **IV. Rejection of Claims 1, 3-7, 11, 26-27 and 32 Under 35 U.S.C. § 102(b)**

The Examiner rejected claims 1, 3-7, 11, 26-27 and 32 under 35 U.S.C. § 102(b) as being anticipated by Kreuzer '300. Claims 4, 5, and 27 have been cancelled. However, with respect to the other claims, this rejection is respectfully traversed.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131 (*citing Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Id.* (*citing Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). In addition, "the reference must be enabling and describe the applicant's claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention." *In re Paulsen*, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Applicants respectfully submit that the claims at issue are patentably distinct from Kreuzer '300 because Kreuzer '300 does not disclose all of the elements in these claims. With respect to independent claims 1 and 26, these claims have been amended to recite that "particles are disposed within the fluid." Independent claim 15 has been amended to recite that "at least one solid mass is disposed within the fluid." Support for these amendments can be found in page 7, lines 1-5 and page 14, line 12 through page 15, line 15. These particles are visible particles that are used in conjunction with the fluid. Such claim elements are not disclosed by Kreuzer '300. Specifically, Applicants cannot find any disclosure in Kreuzer '300 which shows any type of particle or solid mass disposed within the fluid. Accordingly, as these claim elements are absent from Kreuzer '300, this reference cannot anticipate independent claims 1 and 26 under § 102(b). Withdrawal of this rejection is respectfully requested.

Claims 3 and 6-7 and 11 depend, either directly or indirectly, from independent claim 1. Accordingly, Applicants respectfully request that the rejection of dependent claims 3 and 6-7, and 11 be withdrawn for at least the same reasons as those presented above in connection with independent claim 1. Favorable consideration and withdrawal of the asserted rejections is respectfully requested.

With respect to independent claim 32, this claim has been amended to recite that "particles are disposed within the damping means." Again, this claim element regarding particles disposed in the damping means is not disclosed by Kreuzer '300. Accordingly, because this claim language is not disclosed by Kreuzer '300, this reference cannot anticipate claim 32 under § 102(b). Withdrawal of this rejection is respectfully requested.

**V. Rejection of Claims 1, 2, 4, 10, 12, 15-17, 22-26, 31, and 32 Under 35 U.S.C. § 102(b)**

Claims 1, 2, 4, 10, 12, 15-17, 22-26, 31, and 32 were rejected under 35 U.S.C. § 102(b) as being anticipated by Kreuzer '383. Claims 4 and 17 have been cancelled. With respect to claims 1, 2, 10, 12, 15-16, 22-26, 31, and 32, this rejection is respectfully traversed.

As noted above, a claim cannot be anticipated unless all of the claim elements are disclosed in the prior art reference. *See* MPEP § 2131. With respect to independent claims 1, and 26, these claims have been amended to recite that "particles are disposed within the fluid."

Independent claim 15 has been amended to recite that "at least one solid mass is disposed within the fluid." Such claim elements are not disclosed by Kreuzer '383. Specifically, Applicants cannot find any disclosure in Kreuzer '383 which shows any type of particle or solid mass disposed within the fluid. Accordingly, as this claim element is absent from Kreuzer '383, this reference cannot anticipate independent claims 1, 15, and 26 under § 102(b). Withdrawal of this rejection is respectfully requested.

Claims 10, and 12 depend, either directly or indirectly, from independent claim 1. Claims 16, and 22-25 depend from independent claim 15. Similarly, claim 31 depends from independent claim 26. Accordingly, Applicants respectfully request that the rejection of dependent claims 10, 12, 16, 22-25, and 31 be withdrawn for at least the same reasons as those presented above in connection with independent claims 1, 15, and 26. Favorable consideration and withdrawal of the asserted rejections is respectfully requested.

With respect to independent claim 32, this claim has been amended to recite that "particles are disposed within the damping means." Again, this claim element that particles are disposed in the damping means is not disclosed by Kreuzer '383. Accordingly, as this claim element is not found in Kreuzer '383, this reference cannot anticipate claim 32 under § 102(b). Withdrawal of this rejection is respectfully requested.

#### **VI. Rejection of Claims 1, 13-15, 20, 21, 26, 30 and 32 Under 35 U.S.C. § 102(b)**

Claims 1, 13-15, 20, 21, 26, 30 and 32 were rejected under 35 U.S.C. § 102(b) as being anticipated by Masahiro '858. With respect to these claims, this rejection is respectfully traversed.

As noted above, a claim cannot be anticipated unless all of the claim elements are disclosed in the prior art reference. *See* MPEP § 2131. Applicants respectfully submit that the claims at issue are patentably distinct from Masahiro '858 because Masahiro '858 does not disclose all of the elements in these claims. With respect to independent claims 1 and 26, these claims have been amended to recite that the "particles are disposed within the fluid." This claim element is not disclosed by Masahiro '858, nor has the Examiner indicated that such an element is found in Masahiro '858. Accordingly, as this claim element is absent from Masahiro '858, this

reference cannot anticipate independent claims 1 and 26 under § 102(b). Withdrawal of this rejection is respectfully requested.

Claims 13 and 14 depend from independent claim 1. Claim 30 depends from independent claim 26. Accordingly, Applicants respectfully request that the rejection of dependent claims 13, 14, and 30 be withdrawn for at least the same reasons as those presented above in connection with claims 1 and 26. Favorable consideration and withdrawal of the asserted rejections is respectfully requested.

With respect to independent claim 32, this claim has been amended to recite that "particles are disposed within the damping means." This claim element is not disclosed by Masahiro '858, nor has the Examiner asserted that such an element is found in Masahiro '858. Accordingly, as this claim element is not found in Masahiro '858, this reference cannot anticipate claim 32 under § 102(b). Withdrawal of this rejection is respectfully requested.

With respect to independent claim 15, this claim has been amended to recite that "at least one solid mass is disposed within the fluid." This claim element regarding at least one solid mass in the fluid is not disclosed by Masahiro '858. Accordingly, as this claim element is not found in Masahiro '858, this reference cannot anticipate claim 15 under § 102(b). Withdrawal of this rejection is respectfully requested.

Claims 20-21 depend from independent claim 15. Accordingly, Applicants respectfully request that the rejection of dependent claims 20- 21 be withdrawn for at least the same reasons as those presented above in connection with claim 15. Favorable consideration and withdrawal of the asserted rejections is respectfully requested.

#### **VII. Rejection of Claims 1, 15, 26, and 32 Under 35 U.S.C. § 102(e)**

Claims 1, 15, 26, and 32 were rejected under 35 U.S.C. § 102(e) as being anticipated by Kreuzer '624. This rejection is respectfully traversed.

As noted above, a claim cannot be anticipated unless all of the claim elements are disclosed in the prior art reference. *See* MPEP § 2131. With respect to independent claims 1, and 26, these claims have been amended to recite that "particles are disposed within the fluid." Independent claim 15 has been amended to recite that "at least one solid mass is disposed within

the fluid." Such claim elements regarding particles or a solid mass in the fluid is not disclosed by Kreuzer '624. Specifically, Applicants cannot find any disclosure in Kreuzer '624 which shows any type of solid material in the fluid. Accordingly, as these claim elements are absent from Kreuzer '624, this reference cannot anticipate independent claims 1, 15 and 26 under § 102(e). Withdrawal of this rejection is respectfully requested.

With respect to independent claim 32, this claim has been amended to recite that "particles are disposed within the damping means." Again, this claim element regarding particles in the damping means is not disclosed by Kreuzer '624. Accordingly, as this claim element is not found in Kreuzer '624, this reference cannot anticipate claim 32 under § 102(b). Withdrawal of this rejection is respectfully requested.

#### **VIII. Rejection of Claims 1, 8, 9, 15, 18, 19, 26, 28, and 29 Under 35 U.S.C. § 103(a)**

Claims 1, 8, 9, 15, 18, 19, 26, 28, and 29 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Gilmore '531. Claims 8, 19, and 28 have been cancelled. However, with respect to the remaining claims, these rejection are respectfully traversed.

The M.P.E.P. states that

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.

M.P.E.P. § 2142.

Applicants respectfully submit that the claims at issue are patentably distinct from the cited reference. The cited reference does not teach or suggest all of the elements in these claims. With respect to independent claims 1, 15, and 26, these claims have been amended to recite that the fluid occupies "less than three quarters of an entire volume" of the internal chamber. This claim element is not disclosed by Gilmore '531. Specifically, Applicants cannot find any disclosure in Gilmore '531 that less than three quarters of the volume of the internal chamber is occupied by the fluid. Likewise, this claim element cannot be inferred from the teachings of Gilmore '531. Accordingly, as this claim element is absent from Gilmore '531, this reference cannot be used to reject independent claims 1, 15 and 26 under § 103(a). Withdrawal of this rejection is respectfully requested.

Claim 9 depends from independent claim 1. Claim 18 depends from independent claim 15. Similarly, claim 29 depends from independent claim 26. Accordingly, Applicants respectfully request that the rejection of dependent claims 9, 18, and 29 be withdrawn for at least the same reasons as those presented above in connection with independent claim 1, 15, and 26. Favorable consideration and withdrawal of the asserted rejections is respectfully requested.

#### **IX. Rejection of Claims 8, 9, 18, 19, 28, and 29 Under 35 U.S.C. § 103(a)**

Claims 8, 9, 18, 19, 28, and 29 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kreuzer '624 in view of Pierce '690. Claims 8, 19, and 28 have been cancelled. This rejection is respectfully traversed.

As noted above, a claim can only be rejected if all of the claim elements are taught or suggested by the cited references. As a result of this paper, claims 9, 18, and 29 all require that the "less than three quarters of an entire volume" of the internal chamber. This claim element is not taught or suggested by Kreuzer '624. Likewise, Applicants submit that this claim element is also not taught or suggested by Pierce '690. Accordingly, as these cited references fail to teach or suggest of the requisite claim elements, this combination of references cannot be used to reject claims 9, 18, and 29 under § 103(a). Withdrawal of this rejection is respectfully requested.

#### **X. Conclusion**



Appl. No. 10/761,568  
Response Reply Dated February 21, 2007  
Reply to Office Action of Nov. 21, 2006

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Respectfully submitted,

  
Sally J. Brown  
Reg. No. 37,788  
Attorney for Applicant(s)

Date: February 21, 2007

Autoliv ASP, Inc.  
3350 Airport Road  
Ogden, Utah 84405  
Telephone: (801) 625-4994

S:\ALL CLIENTS\2949 Autoliv\2949\_21126\_OA\_11-21-06\Response to OA.doc